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6   IN THE UNITED STATES DISTRICT COURT

7   FOR THE NORTHERN DISTRICT OF CALIFORNIA

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9   JASPER BAILEY, G-60744,   )
)
10   Petitioner,   )   No. C 12-1414 CRB (PR)
)
11   vs.   )   ORDER TO SHOW CAUSE
)
12   RALPH DIAZ, Acting Warden,   )
)
13   Respondent.   )
     _____   )

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15   Per order filed on February 4, 2013, the court granted respondent's motion

16   to dismiss on the ground that petitioner had not exhausted state judicial remedies

17   as to all of his claims for federal habeas relief under 28 U.S.C. § 2254. And

18   pursuant to the law of the circuit, the court gave petitioner the option of either

19   withdrawing his unexhausted claims and proceeding only on his eight exhausted

20   claims, or of dismissing the entire mixed petition and returning to federal court

21   with a new petition once all claims are exhausted. Docket # 36 at 3 (citing

22   Jefferson v. Budge, 419 F.3d 1013, 1016 (9th Cir. 2005); Olvera v. Giurbino, 371

23   F.3d 569, 573 (9th Cir. 2004)).

24   Petitioner has informed the court in writing that he wishes to proceed with

25   the first option and "withdraw his unexhausted claims and proceed on his

26   exhausted claims." Docket # 37 at 2. Accordingly, petitioner's unexhausted

27   claims are STRICKEN. This federal habeas matter will proceed only as to

28   petitioner's eight exhausted claims.

1   Good cause appearing therefor, respondent shall file with the court and

2   serve on petitioner, within 60 days of the issuance of this order, an answer

3   conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases,

4   showing cause why a writ of habeas corpus should not be granted. Respondent

5   shall file with the answer and serve on petitioner a copy of all portions of the

6   state trial record that have been transcribed previously and that are relevant to a

7   determination of the issues presented by the petition. If petitioner wishes to

8   respond to the answer, he shall do so by filing a traverse with the court and

9   serving it on respondent within 30 days of his receipt of the answer.

10   SO ORDERED.

11   DATED: Feb. 19, 2013   _____

      CHARLES R. BREYER
12   United States District Judge

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